

1 Christina V. Kazhe (Bar No. 192158)
2 Michael A. Robinson (Bar No. 214666)
3 MONTEAU & PEEBLES LLP
4 1001 Second Street
5 Sacramento, California 95814
6 Telephone: (916) 441-2700
7 Facsimile: (916) 441-2706

8 Attorneys for Specially-Appearing Defendant
9 SANTA ROSA INDIAN COMMUNITY OF THE
10 SANTA ROSA RANCHERIA dba PALACE
11 BINGO AND PALACE INDIAN GAMING

12 **SUPERIOR COURT OF CALIFORNIA**
13 **FOR THE COUNTY OF SACRAMENTO**

14 FAIR POLITICAL PRACTICES
15 COMMISSION, a state agency,

16 Plaintiff,

17 v.

18 SANTA ROSA INDIAN COMMUNITY OF
19 THE SANTA ROSA RANCHERIA dba
20 PALACE BINGO AND PALACE INDIAN
21 GAMING, and DOES I-XX,

22 Defendant.

Case No.: 02AS04544

Date: March 6, 2003

Time: 9:00 a.m.

Dept.: 54

Judge: Hon. Joe Gray

**SPECIALLY APPEARING SANTA
ROSA RANCHERIA'S
EVIDENTIARY OBJECTIONS TO
DECLARATIONS AND EXHIBITS
SUBMITTED BY PLAINTIFF AND
CCC AMICUS CURIAE**

Date Action Filed: July 31, 2002

Trial Date: None Set

1 Specially appearing Defendant Santa Rosa Rancheria hereby objects to each and every
2 Declaration and exhibit thereto, and Request for Judicial Notice, submitted by Plaintiffs and Amicus
3 Curiae in support of Plaintiff's Opposition to Santa Rosa Rancheria's motion to quash pursuant to
4 California Evidence Code § 350 and § 352.

5
6 **I. AMICUS CURIAE IMPROPERLY SUPPLIED EVIDENCE IN**
7 **SUPPORT OF OBJECTION TO DEFENDANT'S MOTION TO**
8 **QUASH.**

9 Amicus Curiae applicant California Common Cause ("Common Cause") has offered evidence
10 in opposition to specially appearing Defendant's motion to quash. California Common Cause is not a
11 party to this case and does not have rights associated with named parties or parties by intervention.
12 "The granting of leave to appear amici curiae is not the full equivalent of intervention, for amici
13 curiae are confined to legal argument, cannot plead or offer evidence, and cannot appeal from an
14 adverse decision." 4 Witkin, California Procedure, *Pleading*, § 215, p. 280 (4th ed. 1997).

15 Therefore, the Tribe objects to the proffering of any and all evidence on the part of California
16 Common Cause in this instance. If the Court grants the California Common Cause application to
17 appear Amicus Curiae, Common Cause will have the opportunity to brief all matters and issues in the
18 case, however Common Cause should not be allowed to supplement the position of the Plaintiff's
19 argument with unwarranted additions of evidence. The Tribe has objected to the application of
20 Common Cause to appear Amicus Curiae, as Common Cause adds nothing new with relations to
21 issues already ably put forth by Plaintiff, Common Cause has not protectable individual interest in
22 this matter, and Common Cause's application was untimely. This objection stands. Nevertheless, in
23 the event that this Court grants the application of Common Cause, the Defendant objects to the
24 presentation of any evidence by Common Cause.
25
26
27
28

1 **II. EVIDENCE OFFERED BY AMICUS CCC AND PLAINTIFF IS**
2 **NOT RELEVANT AS TO ISSUE PRESENTED IN DEFENDANT'S**
3 **MOTION TO QUASH.**

4 Plaintiff and Common Cause each proffer evidence in support of their respective oppositions
5 to Defendant's motion to quash that is irrelevant to the issue of whether a Tribe enjoys sovereign
6 immunity from suit. Defendant's hereby object to each and every declaration and exhibit thereto
7 offered by Plaintiff and Common Cause based on California Evidence Code §§ 350 and 352.

8 All of the evidence offered by Plaintiff and Common Cause goes to the intent and reach of
9 the California Political Reform Act. None, of the evidence proffered by Plaintiff or Common Cause
10 addresses in any way, or lends evidence on the issue of whether Defendant Tribe has waived its
11 immunity with respect to the California Political Reform Act. For example, Plaintiff offers evidence
12 in the form of declarations from representatives of a number of other states presenting evidence as to
13 the presumed reached of campaign finance laws in their respective states. This information has
14 absolutely no relevancy to the reach of California's law, and certainly provides no relevant evidence
15 of whether a Tribe is immune from suit under that law. Similarly, Plaintiff offers evidence in the
16 form of declarations, and exhibits thereto, from individuals representing responsive government
17 groups, as the intent behind the California Political Reform Act, and the impact disclosure of
18 campaign contributions has on individual voting behavior. Again this has absolutely no relevance to
19 either the reach of the California Political Reform Act and whether the Act can be enforced against a
20 sovereign Indian Tribe.
21

22 The cases of *Boisclair v. Superior Court*, 51 Cal. 3d. 1140, 1158-59 (1990); *Great Western*
23 *Casinos, Inc. v. Morongo Band of Mission Indians*, 74 Cal.App.4th 1407, 1417-18 (1999); and
24 *Warburton/Butner v. Superior Court*, 103 Cal.App.4th 1170 (2002) cited by Plaintiff (Plaintiff's MPA
25 in Opp. at p. 8), offer no support for the evidence Plaintiff has offered. Each of these cases dealt
26 specifically with the development of evidence on whether a Tribe had waived its sovereign immunity,
27
28

1 the precise issue in this instance. None of the evidence proffered by Plaintiff relates in any manner to
2 a waiver of the Tribes immunity. Therefore, the Court should exclude each and all evidence in the
3 form of declarations, and exhibits thereto, in this instance as irrelevant under California Evidence
4 Code § 350, and as time-consuming and prejudicial under California Evidence Code § 352.

5
6 By making these objections, the Tribe does not in any way waiver, limit, or otherwise impair
7 its sovereign immunity against this unconsented to suit.

8
9 Dated: February 28, 2003

MONTEAU & PEEBLES, LLP
CHRISTINA V. KAZHE
MICHAEL A. ROBINSON

10
11
12 By



Michael A. Robinson
Attorneys for Specially Appearing Defendant
SANTA ROSA RANCHERIA TACHI YOKUT
TRIBE and THE PALACE INDIAN GAMING
CENTER

PROOF OF SERVICE BY MAIL
(CCP 1013a)

I declare that I am employed with the law firm of Monteau & Peebles, L.L.P., whose address is 1001 Second Street, Sacramento, California 95814-3201; I am not a party to the within cause; I am over the age of eighteen years; and I am readily familiar with Monteau & Peebles, L.L.P.'s practice for collection and processing of correspondence for mailing with the United States Postal Service and know that in the ordinary course of Monteau & Peebles, L.L.P.'s business practice the document described below will be deposited with the United States Postal Service on the same date that it is placed at Monteau & Peebles, L.L.P. with postage thereon fully prepaid for collection and mailing

I further declare that on the date hereof I served a copy of:

**SPECIALLY APPEARING SANTA ROSA RANCHERIA'S REPLY
MEMORANDUM OF POINTS AND AUTHORITY IN SUPPORT OF
MOTION TO QUASH SERVICE OF SUMMONS AND
FIRST AMENDED COMPLAINT [C.C.P. § 418.10]**

on the following by placing true copies thereof enclosed in a sealed envelope addressed as follows for collection and mailing at Monteau & Peebles, L.L.P., 1001 Second Street, Sacramento, California 95814-3201, in accordance with Monteau & Peebles, L.L.P.'s ordinary business practices:

Steven Russo
Chief of Enforcement
Fair Political Practices Commission
428 J St., Suite 520
Sacramento, CA 95814-2329

Charity Kenyon, Esq.
Riegels Campos & Kenyon, LLP
2500 Venture Way, Suite 220
Sacramento, CA 95833

John C. Ulin, Esq.
D. Eric Shapland, Esq.
Heller Ehrman White & McAuliffe, LLP
601 S. Figueroa St., 40th Fl.
Los Angeles, CA 90017-5758

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed at Sacramento, California, this 28th day of February, 2003.



Vonda Ricciardi